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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/176,634 10/22/98 TURI

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EXAMINER

KIDWELL, M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 07/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/176,634

Applicant(s)

TURI ET AL.

Examiner

Michele M. Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-13,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13,15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 1998 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

- Reference character "111" has been used to designate an absorbent core, an absorbent pad and an absorbent layer.
- Reference character "101" has been used to designate both a back waist region and a back waist portion.
- Reference character "123B" has been used to designate both an elasticized edge and an elastic edge.
- Reference characters "121A, 121B, 121C and 121D" has been used to designate both segments and barrier layer segments.
- Reference character "201" has been used to designate both a back waist region and a back waist portion.

Correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: the word "a" should be placed before "retaining" in line 15 of the claim. Appropriate correction is required.

Claim 8 is objected to because of the following informalities: the examiner presumes that the word "sand" in line 14 should be "said".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 6, 8 – 13 and 15 – 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations “the body” in line 7 and “the sides” in line 16.

There is insufficient antecedent basis for these limitations in the claim.

Claim 3 recites the following limitations:

- “the body” in lines 6 and 10.
- “said top portion” in lines 17 and 18.
- “the sides” in line 19.

There is insufficient antecedent basis for these limitations in the claim.

Claims 5 and 6 recite the limitations “said overlying barrier layer ” in line 2 and “each pair of elastic edges” in line 3 of each claim. There is insufficient antecedent basis for these limitations in the claims.

Claim 8 recites the following limitations:

- “the body” in lines 5 and 8.
- “said elasticized edges” in lines 14 – 15.
- “said core member” in lines 16.
- “each of said arch-shaped segments” in line 16
- “said arch-shaped segment” in line 17.

There is insufficient antecedent basis for these limitations in the claim.

Additionally, the use of the pronoun "its" in line 17 renders the claim indefinite because it is unclear what "it" is referring to.

Claim 9 recites the limitation "said elasticized edges " in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the following limitations:

- "the body" in line 5.
- "the longitudinal axis" in line 8.
- "said core member" in line 8.
- "the opposite side of said first barrier layer segment" in lines 9 – 10.

There is insufficient antecedent basis for these limitations in the claim.

Additionally, the use of the pronoun "its" in lines 15 and 17 render the claim indefinite because it is unclear what "it" is referring to.

Claim 12 recites the following limitations:

- "the body" in line 4.
- "the longitudinal axis of said core member" in line 7.
- "the opposite side of said first barrier layer segment" in lines 8 – 9.

There is insufficient antecedent basis for these limitations in the claim.

Additionally, the use of the pronoun "its" in lines 13 and 15 render the claim indefinite because it is unclear what "it" is referring to.

Claim 13 recites the following limitations:

- "the longitudinal axis of said body" in lines 7 – 8.

- "the lateral side" in lines 9 and 12.
- "the longitudinal side of said body" in lines 9 – 10.
- "the opposite side" in line 11.
- "the opposing longitudinal side of said body" in line 12.

There is insufficient antecedent basis for these limitations in the claim.

Additionally, the use of the pronoun "its" in line 14 renders the claim indefinite because it is unclear what "it" is referring to.

Claim 15 recites the following limitations:

- "the body" in line 4.
- "the longitudinal axis of said body" in line 7.
- "the opposed side" in line 8.

There is insufficient antecedent basis for these limitations in the claim.

Additionally, the use of the pronoun "its" in line 13 renders the claim indefinite because it is unclear what "it" is referring to.

Claim 16 recites the limitation "the length" in line 2. There is insufficient antecedent basis for this limitation in the claim.

With respect to all of the claims, the Examiner would like to point out that the language of the claims should remain consistent throughout the claims. For example, in claim 1, if the Applicant initially refers to two elasticized barrier layers, then all future references should be elasticized barrier layers as well, not just barrier layers. This will improve the clarity of the claims and provide for a better understanding of the claimed invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 6, 10 – 13 and 15 – 16, as best understood by the Examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Enloe (US 4,704,116).

As to claim 1, discloses an integral disposable elasticized absorbent article comprising an absorbent body having a front waist portion, a back waist portion, a crotch portion and a pair of spaced apart leg openings (figure 8), an absorbent core member having a top portion and a bottom portion (16), means for fastening the absorbent body to the body of a wearer (28) and at least two elasticized barrier layers (30,32) wherein each of said barrier layer has an edge secured to said absorbent body and another edge overlying said top portion of the absorbent core member, thereby defining a retaining enclosure between the barrier layer and the top portion of the absorbent core member along the sides of the article as set forth in figure 8.

With reference to claims 2 and 4, Enloe discloses an absorbent article comprising an elasticized barrier having barrier segments (30,32), each of said segments being secured to the absorbent body to form a retaining enclosure between each of the barrier segments and a portion of the absorbent core as set forth in col. 2, line 66 to col. 3, line 46 and in figures 1 and 2.

Regarding claim 3, see the rejection of claim 1. Further, Enloe discloses the absorbent core member having a liquid pervious top layer facing the body of a wearer (14), a liquid impervious back layer substantially coextensive with the liquid pervious layer (12) and a liquid absorbent layer disposed between the top layer and the back layer (16) as set forth in col. 4, lines 31 – 42.

As to claims 5, 6 and 11, Enloe discloses an absorbent article wherein each segment of the barrier layer comprises an inner elasticized edge and wherein each pair of elastic edges cross near the leg opening to form a dual protective region as set forth in figure 7.

With respect to claims 10, 12 – 13 and 15, Enloe discloses an absorbent article comprising an absorbent body having a front waist portion, a back waist portion, a crotch portion and a pair of spaced apart leg openings (figure 8), an absorbent core member (16), means for fastening the absorbent article to the body of a wearer (28) an elasticized barrier layer segment overlying the absorbent core member at one side of the longitudinal axis of the core member (30), and an elasticized second barrier layer segment overlying the absorbent core member at the opposite side of the first barrier layer segment (32), said first barrier layer segment having a generally concave-shaped elasticized edge, and said second barrier layer segment having a generally concave-shaped elasticized edge, wherein the elasticized edges together define a generally oval-shaped opening (figure 8), and wherein the first barrier layer segment defines a first retaining enclosure between the first barrier layer segment and its underlying portion of the absorbent core member, and the second barrier layer segment defines a retaining

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enclosure between said second barrier layer segment and its underlying portion of the absorbent core member as set forth in col. 4, lines 63 – 64 and in figure 8.

As to claim 16, see figure 8.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell

Michele Kidwell
July 18, 2001

[Signature]
Michele Kidwell
Examiner